

9-8-102. Definitions.

As used in this chapter:

- (1) "Board" means the Board of State History.
- (2) "Director" means the director of the Division of State History.
- (3) "Division" means the Division of State History.
- (4) "Documentary materials" means written or documentary information contained in published materials, manuscript collections, archival materials, photographs, sound recordings, motion pictures, and other written, visual, and aural materials, except government records.
- (5) "Historical artifacts" means objects produced or shaped by human efforts, a natural object deliberately selected and used by a human, an object of aesthetic interest, and any human-made objects produced, used, or valued by the historic peoples of Utah.
- (6) (a) "Pass-through funding" means funds appropriated by the Legislature to a state agency that are intended to be passed through the state agency to:
 - (i) local governments;
 - (ii) other government agencies;
 - (iii) private organizations, including not-for-profits; or
 - (iv) persons in the form of a loan or grant.(b) The funding may be:
 - (i) general funds, federal funds, dedicated credits, or any combination of funding sources; and
 - (ii) ongoing or one-time.
- (7) "Society" means the Utah State Historical Society.

Amended by Chapter 111, 2010 General Session

9-8-201. Division of State History -- Creation -- Purpose.

- (1) There is created within the department the Division of State History under the administration and general supervision of the executive director or the designee of the executive director.
- (2) The division shall be under the policy direction of the board.
- (3) The division shall be the authority of the state for state history and shall perform those duties set forth in statute.

Renumbered and Amended by Chapter 241, 1992 General Session

9-8-202. Appointment of director.

- (1) The chief administrative officer of the division shall be a director appointed by the executive director with the concurrence of the board.
- (2) The director shall be experienced in administration and qualified by education or training in the field of state history.

Renumbered and Amended by Chapter 241, 1992 General Session

9-8-203. Division duties.

- (1) The division shall:
 - (a) stimulate research, study, and activity in the field of Utah history and related history;
 - (b) maintain a specialized history library;
 - (c) mark and preserve historic sites, areas, and remains;
 - (d) collect, preserve, and administer historical records relating to the history of Utah;
 - (e) administer, collect, preserve, document, interpret, develop, and exhibit historical artifacts, documentary materials, and other objects relating to the history of Utah for educational and cultural purposes;
 - (f) edit and publish historical records;
 - (g) cooperate with local, state, and federal agencies and schools and museums to provide coordinated and organized activities for the collection, documentation, preservation, interpretation, and exhibition of historical artifacts related to the state;
 - (h) promote, coordinate, and administer:
 - (i) Utah History Day at the Capitol designated under Section 63G-1-401; and
 - (ii) the Utah History Day program affiliated with National History Day, which includes a series of regional, state, and national activities and competitions for students from grades 4 through 12;
 - (i) provide grants and technical assistance as necessary and appropriate; and
 - (j) comply with the procedures and requirements of Title 63G, Chapter 4, Administrative Procedures Act, in its adjudicative proceedings.
- (2) The division may acquire or produce reproductions of historical artifacts and documentary materials for educational and cultural use.
- (3) To promote an appreciation of Utah history and to increase heritage tourism in the state, the division shall:
 - (a) (i) create and maintain an inventory of all historic markers and monuments that are accessible to the public throughout the state;
 - (ii) enter into cooperative agreements with other groups and organizations to collect and maintain the information needed for the inventory;
 - (iii) encourage the use of volunteers to help collect the information and to maintain the inventory;
 - (iv) publicize the information in the inventory in a variety of forms and media, especially to encourage Utah citizens and tourists to visit the markers and monuments;
 - (v) work with public and private landowners, heritage organizations, and volunteer groups to help maintain, repair, and landscape around the markers and monuments; and
 - (vi) make the inventory available upon request to all other public and private history and heritage organizations, tourism organizations and businesses, and others;
- (b) (i) create and maintain an inventory of all active and inactive cemeteries throughout the state;
- (ii) enter into cooperative agreements with local governments and other groups and organizations to collect and maintain the information needed for the inventory;
- (iii) encourage the use of volunteers to help collect the information and to maintain the inventory;
- (iv) encourage cemetery owners to create and maintain geographic information

systems to record burial sites and encourage volunteers to do so for inactive and small historic cemeteries;

(v) publicize the information in the inventory in a variety of forms and media, especially to encourage Utah citizens to participate in the care and upkeep of historic cemeteries;

(vi) work with public and private cemeteries, heritage organizations, genealogical groups, and volunteer groups to help maintain, repair, and landscape cemeteries, grave sites, and tombstones; and

(vii) make the inventory available upon request to all other public and private history and heritage organizations, tourism organizations and businesses, and others; and

(c) (i) create and maintain a computerized record of cemeteries and burial locations in a state-coordinated and publicly accessible information system;

(ii) gather information for the information system created and maintained under Subsection (3)(c)(i) by providing matching grants, upon approval by the board, to:

(A) municipal cemeteries;

(B) cemetery maintenance districts;

(C) endowment care cemeteries;

(D) private nonprofit cemeteries;

(E) genealogical associations; and

(F) other nonprofit groups with an interest in cemeteries; and

(iii) adopt rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, for granting matching funds under Subsection (3)(c)(ii) to ensure that:

(A) professional standards are met; and

(B) projects are cost effective.

(4) (a) For a pass-through funding grant of at least \$25,000, the division shall make quarterly disbursements to the pass-through funding grant recipient, contingent upon the division receiving a quarterly progress report from the pass-through grant recipient.

(b) The division shall:

(i) provide the pass-through grant recipient with a progress report form for the reporting purposes of Subsection (4)(a); and

(ii) include reporting requirement instructions with the form.

(5) This chapter may not be construed to authorize the division to acquire by purchase any historical artifacts, documentary materials, or specimens that are restricted from sale by federal law or the laws of any state, territory, or foreign nation.

Amended by Chapter 123, 2014 General Session

9-8-204. Board of State History.

(1) There is created within the department the Board of State History.

(2) The board shall consist of 11 members appointed by the governor with the consent of the Senate as follows:

(a) sufficient representatives to satisfy the federal requirements for an adequately qualified State Historic Preservation Review Board; and

(b) other persons with an interest in the subject matter of the division's

responsibilities.

(3) (a) Except as required by Subsection (3)(b), the members shall be appointed for terms of four years and shall serve until their successors are appointed and qualified.

(b) Notwithstanding the requirements of Subsection (3)(a), the governor shall, at the time of appointment or reappointment, adjust the length of terms to ensure that the terms of board members are staggered so that approximately half of the board is appointed every two years.

(4) When a vacancy occurs in the membership for any reason, the replacement shall be appointed for the unexpired term with the consent of the Senate.

(5) Six members of the board are a quorum for the transaction of business.

(6) The governor shall select a chair and vice chair from the board members.

(7) A member may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses in accordance with:

(a) Section 63A-3-106;

(b) Section 63A-3-107; and

(c) rules made by the Division of Finance pursuant to Sections 63A-3-106 and 63A-3-107.

Amended by Chapter 286, 2010 General Session

9-8-205. Board duties and powers.

(1) The board shall:

(a) make policies to direct the division director in carrying out the director's duties;

(b) approve the division's rules;

(c) assist the division in development programs consistent with this chapter;

(d) function as the State Review Board for purposes of the historic preservation program;

(e) recommend districts, sites, buildings, structures, and objects for listing on the State and National Historic Registers to the director;

(f) review and approve, if appropriate, matching grants under Subsection 9-8-203(3)(c)(ii); and

(g) function as the board of the society.

(2) (a) By September 30 of each year, the board shall prepare and submit a request to the governor and the Legislature for prioritized capital facilities grants to be awarded to eligible institutions under this chapter.

(b) The board shall prepare a list of the requested capital facilities grants in a prioritized order and include a written explanation of:

(i) the total grant amount requested in the list; and

(ii) the basis of its prioritization of requested grants on the list.

(c) The board shall accept applications for capital facilities grants by June 1 of each year, prior to compiling and submitting its yearly request to the governor and Legislature under Subsection (2)(a).

(3) The board may establish advisory committees to assist it and the division in carrying out their responsibilities under this chapter.

Amended by Chapter 111, 2010 General Session

9-8-206. Historical magazine, books, documents, and microfilms -- Proceeds.

- (1) The division shall, under the direction of the board:
 - (a) compile and publish an historical magazine to be furnished to supporting members of the society in accordance with membership subscriptions or to be sold independently of membership; and
 - (b) publish and sell other books, documents, and microfilms at reasonable prices to be approved by the director.
- (2) Proceeds from sales under this section shall be retained in the treasury of the society.

Renumbered and Amended by Chapter 241, 1992 General Session

9-8-207. Historical Society -- Donations -- Accounting.

- (1) (a) There is created the Utah State Historical Society.
- (b) The society may:
 - (i) solicit memberships from persons interested in the work of the society and charge dues for memberships commensurate with the advantages of membership and the needs of the society; and
 - (ii) receive gifts, donations, bequests, devises, and endowments of money or property, which shall then become the property of the state of Utah.
- (2) If the donor directs that money or property donated under Subsection (1)(b)(ii) be used in a specified manner, then the division shall use it in accordance with these directions. Otherwise, all donated money and the proceeds from donated property, together with the charges realized from society memberships, shall be deposited in the General Fund as restricted revenue of the society.
- (3) The division shall keep a correct account of funds and property received, held, or disbursed by the society, and shall make reports to the governor as in the case of other state institutions.

Renumbered and Amended by Chapter 241, 1992 General Session

9-8-301. Purpose.

- (1) The Legislature declares that the general public and the beneficiaries of the school and institutional land grants have an interest in the preservation and protection of the state's archaeological and anthropological resources and a right to the knowledge derived and gained from scientific study of those resources.
- (2) (a) The Legislature finds that policies and procedures for the survey and excavation of archaeological resources from school and institutional trust lands are consistent with the school and institutional land grants, if these policies and procedures insure that primary consideration is given, on a site or project specific basis, to the purpose of support for the beneficiaries of the school and institutional land grants.
- (b) The Legislature finds that the preservation, placement in a repository,

curation, and exhibition of specimens found on school or institutional trust lands for scientific and educational purposes is consistent with the school and institutional land grants.

(c) The Legislature finds that the preservation and development of sites found on school or institutional trust lands for scientific or educational purposes, or the disposition of sites found on school or institutional trust lands, after consultation between the division and the School and Institutional Trust Lands Administration to determine the appropriate level of data recovery or implementation of other appropriate preservation measures, for preservation, development, or economic purposes, is consistent with the school and institutional land grants.

(d) The Legislature declares that specimens found on lands owned or controlled by the state or its subdivisions may not be sold.

(3) The Legislature declares that the historical preservation purposes of this chapter must be kept in balance with the other uses of land and natural resources which benefit the health and welfare of the state's citizens.

(4) It is the purpose of this part and Part 4, Historic Sites, to provide that the survey, excavation, curation, study, and exhibition of the state's archaeological and anthropological resources be undertaken in a coordinated, professional, and organized manner for the general welfare of the public and beneficiaries alike.

Amended by Chapter 189, 2014 General Session

9-8-302. Definitions.

As used in this part and Part 4, Historic Sites:

(1) "Agency" means a department, division, office, bureau, board, commission, or other administrative unit of the state.

(2) "Ancient human remains" means all or part of the following that are historic or prehistoric:

(a) a physical individual; and

(b) any object on or attached to the physical individual that is placed on or attached to the physical individual as part of the death rite or ceremony of a culture.

(3) "Antiquities Section" means the Antiquities Section of the Division of State History created in Section 9-8-304.

(4) "Archaeological resources" means all material remains and their associations, recoverable or discoverable through excavation or survey, that provide information pertaining to the historic or prehistoric peoples of the state.

(5) "Collection" means a specimen and the associated records documenting the specimen and its recovery.

(6) "Curation" means management and care of collections according to standard professional museum practice, which may include inventorying, accessioning, labeling, cataloging, identifying, evaluating, documenting, storing, maintaining, periodically inspecting, cleaning, stabilizing, conserving, exhibiting, exchanging, or otherwise disposing of original collections or reproductions, and providing access to and facilities for studying collections.

(7) "Curation facility" is defined as provided in Section 53B-17-603.

(8) "Division" means the Division of State History created in Section 9-8-201.

(9) "Excavate" means the recovery of archaeological resources.

(10) "Historic property" means any prehistoric or historic district, site, building, structure, or specimen included in, or eligible for inclusion in, the National Register of Historic Places or the State Register.

(11) "Indian tribe" means a tribe, band, nation, or other organized group or community of Indians that is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians.

(12) "Museum" means the Utah Museum of Natural History.

(13) (a) "Nonfederal land" means land in the state that is not owned, controlled, or held in trust by the federal government.

(b) "Nonfederal land" includes:

(i) land owned or controlled by:

(A) the state;

(B) a county, city, or town;

(C) an Indian tribe, if the land is not held in trust by the United States for the Indian tribe or the Indian tribe's members; or

(D) a person other than the federal government; or

(ii) school and institutional trust lands.

(14) "Principal investigator" means the individual with overall administrative responsibility for the survey or excavation project authorized by the permit.

(15) "Repository" is defined as provided in Section 53B-17-603.

(16) "School and institutional trust lands" are those properties defined in Section 53C-1-103.

(17) "Site" means any petroglyphs, pictographs, structural remains, or geographic location that is the source of archaeological resources or specimens.

(18) "Specimen" means all man-made artifacts and remains of an archaeological or anthropological nature found on or below the surface of the earth, excluding structural remains.

(19) "State historic preservation officer" means that position mentioned in 16 U.S.C. Sec. 470a, as amended.

(20) (a) "State land" means land owned by the state including the state's:

(i) legislative and judicial branches;

(ii) departments, divisions, agencies, boards, commissions, councils, and committees; and

(iii) institutions of higher education as defined under Section 53B-3-102.

(b) "State land" does not include:

(i) land owned by a political subdivision of the state;

(ii) land owned by a school district;

(iii) private land; or

(iv) school and institutional trust lands.

(21) "Survey" means a surface investigation for archaeological resources that may include:

(a) insubstantial surface collection of archaeological resources; and

(b) limited subsurface testing that disturbs no more of a site than is necessary to determine the nature and extent of the archaeological resources or whether the site is a historic property.

Amended by Chapter 231, 2007 General Session

9-8-304. Antiquities Section created -- Duties.

- (1) There is created within the division the Antiquities Section.
- (2) The Antiquities Section shall:
 - (a) promote research, study, and activities in the field of antiquities;
 - (b) assist with the marking, protection, and preservation of sites;
 - (c) assist with the collection, preservation, and administration of specimens until the specimens are placed in a repository or curation facility;
 - (d) provide advice on the protection and orderly development of archaeological resources, and in doing so confer with the Public Lands Policy Coordinating Office if requested;
 - (e) assist with the excavation, retrieval, and proper care of ancient human remains discovered on nonfederal lands in accordance with:
 - (i) Section 9-8-309;
 - (ii) Section 9-9-403;
 - (iii) Subsection 76-9-704(3); and
 - (iv) federal law;
 - (f) collect and administer site survey and excavation records;
 - (g) edit and publish antiquities records;
 - (h) inform the state historic preservation officer in writing about any request for advice or consultation from an agency or an agency's agent; and
 - (i) employ an archaeologist meeting the requirements of 36 C.F.R. 61.4.
- (3) The Antiquities Section shall cooperate with local, state, and federal agencies and all interested persons to achieve the purposes of this part and Part 4, Historic Sites.
- (4) Before performing the duties specified in Subsections (2)(a) through (e), the Antiquities Section shall obtain permission from the landowner.

Amended by Chapter 231, 2007 General Session

9-8-305. Permit required to survey or excavate on state lands -- Public Lands Policy Coordinating Office to issue permits and make rules -- Ownership of collections and resources -- Revocation or suspension of permits -- Criminal penalties.

- (1) (a) Except as provided by Subsections (1)(d) and (3)(c), each principal investigator who wishes to survey or excavate on any lands owned or controlled by the state, its political subdivisions, or by the School and Institutional Trust Lands Administration shall obtain a survey or excavation permit from the Public Lands Policy Coordinating Office.
- (b) A principal investigator who holds a valid permit under this section may allow other individuals to assist the principal investigator in a survey or excavation if the principal investigator ensures that all the individuals comply with the law, the rules, the permit, and the appropriate professional standards.
- (c) A person, other than a principal investigator, may not survey or excavate on

any lands owned or controlled by the state, its political subdivisions, or by the School and Institutional Trust Lands Administration unless the person works under the direction of a principal investigator who holds a valid permit.

(d) A permit obtained before July 1, 2006 shall continue until the permit terminates on its own terms.

(2) (a) To obtain a survey permit, a principal investigator shall:

(i) submit a permit application on a form furnished by the Public Lands Policy Coordinating Office;

(ii) except as provided in Subsection (2)(b), possess a graduate degree in anthropology, archaeology, or history;

(iii) have one year of full-time professional experience or equivalent specialized training in archaeological research, administration, or management; and

(iv) have one year of supervised field and analytical experience in Utah prehistoric or historic archaeology.

(b) In lieu of the graduate degree required by Subsection (2)(a)(ii), a principal investigator may submit evidence of training and experience equivalent to a graduate degree.

(c) Unless the permit is revoked or suspended, a survey permit is valid for the time period specified in the permit by the Public Lands Policy Coordinating Office, which may not exceed three years.

(3) (a) Except as provided by Subsection (3)(c), to obtain an excavation permit, a principal investigator shall, in addition to complying with Subsection (2)(a), submit:

(i) a research design to the Public Lands Policy Coordinating Office and the Antiquities Section that:

(A) states the questions to be addressed;

(B) states the reasons for conducting the work;

(C) defines the methods to be used;

(D) describes the analysis to be performed;

(E) outlines the expected results and the plan for reporting;

(F) evaluates expected contributions of the proposed work to archaeological or anthropological science; and

(G) estimates the cost and the time of the work that the principal investigator believes is necessary to provide the maximum amount of historic, scientific, archaeological, anthropological, and educational information; and

(ii) proof of permission from the landowner to enter the property for the purposes of the permit.

(b) An excavation permit is valid for the amount of time specified in the permit, unless the permit is revoked according to Subsection (9).

(c) The Public Lands Policy Coordinating Office may delegate to an agency the authority to issue excavation permits if the agency:

(i) requests the delegation; and

(ii) employs or has a long-term contract with a principal investigator with a valid survey permit.

(d) The Public Lands Policy Coordinating Office shall conduct an independent review of the delegation authorized by Subsection (3)(c) every three years and may revoke the delegation at any time without cause.

(4) The Public Lands Policy Coordinating Office shall:

(a) grant a survey permit to a principal investigator who meets the requirements of this section;

(b) grant an excavation permit to a principal investigator after approving, in consultation with the Antiquities Section, the research design for the project; and

(c) assemble a committee of qualified individuals to advise the Public Lands Policy Coordinating Office in its duties under this section.

(5) By following the procedures and requirements of Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the Public Lands Policy Coordinating Office shall, after consulting with the Antiquities Section, make rules to:

(a) establish survey methodology;

(b) standardize report and data preparation and submission;

(c) require other permit application information that the Public Lands Policy Coordinating Office finds necessary, including proof of consultation with the appropriate Native American tribe;

(d) establish what training and experience is equivalent to a graduate degree;

(e) establish requirements for a person authorized by Subsection (1)(b) to assist the principal investigator;

(f) establish requirements for a principal investigator's employer, if applicable; and

(g) establish criteria that, if met, would allow the Public Lands Policy Coordinating Office to reinstate a suspended permit.

(6) Each principal investigator shall submit a summary report of the work for each project to the Antiquities Section in a form prescribed by a rule established under Subsection (5)(b), which shall include copies of all:

(a) site forms;

(b) data;

(c) maps;

(d) drawings;

(e) photographs; and

(f) descriptions of specimens.

(7) (a) Except as provided in Subsection (7)(c), a person may not remove from Utah any specimen, site, or portion of any site from lands owned or controlled by the state or its political subdivisions, other than school and institutional trust lands, without permission from the Antiquities Section, and prior consultation with the landowner and any other agencies managing other interests in the land.

(b) Except as provided in Subsection (7)(c), a person may not remove from Utah any specimen, site, or portion of any site from school and institutional trust lands without permission from the School and Institutional Trust Lands Administration, granted after consultation with the Antiquities Section.

(c) If a specimen, site, or portion of a site is placed in a repository or curation facility, a person may remove it by following the procedures established by the repository or curation facility.

(8) (a) Collections recovered from school and institutional trust lands are owned by the respective trust.

(b) Collections recovered from lands owned or controlled by the state or its

subdivisions, other than school and institutional trust lands, are owned by the state.

(c) Within a reasonable time after the completion of fieldwork, each permit holder shall deposit all collections at the museum, a curation facility, or a repository.

(d) The repository or curation facility for collections from lands owned or controlled by the state or its subdivisions shall be designated according to the rules made under the authority of Section 53B-17-603.

(9) (a) Upon complaint by an agency, the Public Lands Policy Coordinating Office shall investigate a principal investigator and the work conducted under a permit.

(b) By following the procedures and requirements of Title 63G, Chapter 4, Administrative Procedures Act, the Public Lands Policy Coordinating Office may revoke or suspend a permit if the principal investigator fails to conduct a survey or excavation according to law, the rules enacted by the Public Lands Policy Coordinating Office, or permit provisions.

(10) (a) Any person violating this section is guilty of a class B misdemeanor.

(b) A person convicted of violating this section, or found to have violated the rules authorized by this section, shall, in addition to any other penalties imposed, forfeit all archaeological resources discovered by or through the person's efforts to the state or the respective trust.

(11) The division may enter into memoranda of agreement to issue project numbers or to retain other data for federal lands or Native American lands within the state.

Amended by Chapter 382, 2008 General Session

9-8-306. Archaeological or anthropological landmarks.

(1) Sites of significance may be recommended to and approved by the board as state archaeological or anthropological landmarks. No privately owned site or site on school or institutional trust lands may be so designated without the written consent of the owner.

(2) A person may not excavate upon a privately owned designated landmark without a permit from the division.

(3) Before any alteration is commenced on a designated landmark, three months' notice of intent to alter the site shall be given the division.

Amended by Chapter 170, 1995 General Session

9-8-307. Report of discovery on state or private lands.

(1) Any person who discovers any archaeological resources on lands owned or controlled by the state or its subdivisions shall promptly report the discovery to the division.

(2) Any person who discovers any archaeological resources on privately owned lands shall promptly report the discovery to the division.

(3) Field investigations shall be discouraged except in accordance with this part and Part 4, Historic Sites.

(4) Nothing in this section may be construed to authorize any person to survey or excavate for archaeological resources.

Amended by Chapter 189, 2014 General Session

9-8-308. Forgery or false labeling of specimens unlawful.

It is unlawful to reproduce, rework, or forge any specimen or make any object, whether copied or not, or falsely label, describe, identify, or offer for sale or exchange any object, with intent to represent it as an original and genuine specimen. No person may offer for sale or other exchange any object with knowledge that it was collected or excavated in violation of this part.

Renumbered and Amended by Chapter 241, 1992 General Session

9-8-309. Ancient human remains on nonfederal lands that are not state lands.

(1) (a) After April 30, 2007, if a person knows or has reason to know that the person discovered ancient human remains on nonfederal land that is not state land:

(i) the person shall:

(A) cease activity in the area of the discovery until activity may be resumed in accordance with Subsection (1)(d);

(B) notify a local law enforcement agency in accordance with Section 76-9-704; and

(C) notify the person who owns or controls the nonfederal land, if that person is different than the person who discovers the ancient human remains; and

(ii) the person who owns or controls the nonfederal land shall:

(A) require that activity in the area of the discovery cease until activity may be resumed in accordance with Subsection (1)(d); and

(B) make a reasonable effort to protect the discovered ancient human remains before activity may be resumed in accordance with Subsection (1)(d).

(b) (i) If the local law enforcement agency believes after being notified under this Subsection (1) that a person may have discovered ancient human remains, the local law enforcement agency shall contact the Antiquities Section.

(ii) The Antiquities Section shall:

(A) within two business days of the day on which the Antiquities Section is notified by local law enforcement, notify the landowner that the Antiquities Section may excavate and retrieve the human remains with the landowner's permission; and

(B) if the landowner gives the landowner's permission, excavate the human remains by no later than:

(I) five business days from the day on which the Antiquities Section obtains the permission of the landowner under this Subsection (1); or

(II) if extraordinary circumstances exist as provided in Subsection (1)(c), within the time period designated by the director not to exceed 30 days from the day on which the Antiquities Section obtains the permission of the landowner under this Subsection (1).

(c) (i) The director may grant the Antiquities Section an extension of time for excavation and retrieval of ancient human remains not to exceed 30 days from the day on which the Antiquities Section obtains the permission of the landowner under this

Subsection (1), if the director determines that extraordinary circumstances exist on the basis of objective criteria such as:

- (A) the unusual scope of the ancient human remains;
- (B) the complexity or difficulty of excavation or retrieval of the ancient human remains; or
- (C) the landowner's concerns related to the excavation or retrieval of the ancient human remains.

(ii) If the landowner objects to the time period designated by the director, the landowner may appeal the decision to the executive director of the department in writing.

(iii) If the executive director receives an appeal from the landowner under this Subsection (1)(c), the executive director shall:

- (A) decide on the appeal within two business days; and
- (B) (I) uphold the decision of the director; or
- (II) designate a shorter time period than the director designated for the excavation and retrieval of the ancient human remains.

(iv) An appeal under this Subsection (1)(c) may not be the cause for the delay of the excavation and retrieval of the ancient human remains.

(v) A decision and appeal under this Subsection (1)(c) is exempt from Title 63G, Chapter 4, Administrative Procedures Act.

(d) A person that owns or controls nonfederal land that is not state land may engage in or permit others to engage in activities in the area of the discovery without violating this part or Section 76-9-704 if once notified of the discovery of ancient human remains on the nonfederal land, the person:

(i) consents to the Antiquities Section excavating and retrieving the ancient human remains; and

(ii) engages in or permits others to engage in activities in the area of the discovery only after:

(A) the day on which the Antiquities Section removes the ancient human remains from the nonfederal land; or

(B) the time period described in Subsection (1)(b)(ii)(B).

(2) A person that owns or controls nonfederal land that is not state land may not be required to pay any costs incurred by the state associated with the ancient human remains, including costs associated with the costs of the:

- (a) discovery of ancient human remains;
- (b) excavation or retrieval of ancient human remains; or
- (c) determination of ownership or disposition of ancient human remains.

(3) For nonfederal land that is not state land, nothing in this section limits or prohibits the Antiquities Section and a person who owns or controls the nonfederal land from entering into an agreement addressing the ancient human remains that allows for different terms than those provided in this section.

(4) The ownership and control of ancient human remains that are the ancient human remains of a Native American shall be determined in accordance with Chapter 9, Part 4, Native American Grave Protection and Repatriation Act:

- (a) if the ancient human remains are in possession of the state;
- (b) if the ancient human remains are not known to have been discovered on

lands owned, controlled, or held in trust by the federal government; and

(c) regardless of when the ancient human remains are discovered.

(5) This section:

(a) does not apply to ancient human remains that are subject to the provisions and procedures of:

(i) federal law; or

(ii) Part 4, Historic Sites; and

(b) does not modify any property rights of a person that owns or controls nonfederal land except as to the ownership of the ancient human remains.

(6) The division, Antiquities Section, or Division of Indian Affairs may not make rules that impose any requirement on a person who discovers ancient human remains or who owns or controls nonfederal land that is not state land on which ancient human remains are discovered that is not expressly provided for in this section.

Amended by Chapter 382, 2008 General Session

9-8-401. Purpose.

The Legislature determines and declares that the public has a vital interest in all antiquities, historic and prehistoric ruins, and historic sites, buildings, and objects which, when neglected, desecrated, destroyed or diminished in aesthetic value, result in an irreplaceable loss to the people of this state.

Renumbered and Amended by Chapter 241, 1992 General Session

Renumbered and Amended by Chapter 286, 1992 General Session

9-8-402. State register -- Division duties.

(1) As used in this part, "State Register" means a register of cultural sites and localities, historic and prehistoric sites, and districts, buildings, and objects significant in Utah history.

(2) The division shall:

(a) constitute the historic preservation agency for this state;

(b) establish a state register for the orderly identification and recognition of the state's cultural resources; and

(c) provide for participation in the National Historic Preservation Program.

Amended by Chapter 170, 1995 General Session

9-8-403. Placement on State or National Register.

The board shall notify owners of sites, buildings, structures, or objects before placing those sites, buildings, structures, or objects on the State Register or nominating them to the National Register.

Renumbered and Amended by Chapter 241, 1992 General Session

9-8-404. Agency responsibilities -- State historic preservation officer to comment on undertaking -- Public Lands Policy Coordinating Office may require

joint analysis.

(1) (a) Before expending any state funds or approving any undertaking, each agency shall:

(i) take into account the effect of the expenditure or undertaking on any historic property; and

(ii) unless exempted by agreement between the agency and the state historic preservation officer, provide the state historic preservation officer with a written evaluation of the expenditure's or undertaking's effect on the historic property.

(b) Once per month, the state historic preservation officer shall provide the Public Lands Policy Coordinating Office with a list of undertakings on which an agency or federal agency has requested the state historic preservation officer's or the Antiquities Section's advice or consultation.

(c) The Public Lands Policy Coordinating Office may request the joint analysis described in Subsections (2)(c) and (d) of any proposed undertaking on which the state historic preservation officer or Antiquities Section is providing advice or consultation.

(2) (a) If the state historic preservation officer does not concur with the agency's written evaluation required by Subsection (1)(a)(ii), the state historic preservation officer shall inform the Public Lands Policy Coordinating Office of any objections.

(b) The Public Lands Policy Coordinating Office shall review the state historic preservation officer's objections and determine whether or not to initiate the joint analysis established in Subsections (2)(c) and (d).

(c) If the Public Lands Policy Coordinating Office determines further analysis is necessary, the Public Lands Policy Coordinating Office shall, jointly with the agency and the state historic preservation officer, analyze:

(i) the cost of the undertaking, excluding costs attributable to the identification, potential recovery, or excavation of historic properties;

(ii) the ownership of the land involved;

(iii) the likelihood of the presence and the nature and type of historical properties that may be affected by the expenditure or undertaking; and

(iv) clear and distinct alternatives for the identification, recovery, or excavation of historic properties, including ways to maximize the amount of information recovered and report that information at current standards of scientific rigor.

(d) The Public Lands Policy Coordinating Office, the agency, and the state historic preservation officer shall also consider as part of the joint analysis:

(i) the estimated costs of the alternatives in Subsection (2)(c)(iv) in total and as a percentage of the total cost of the undertaking; and

(ii) at least one plan for the identification, recovery, or excavation of historic properties that does not substantially increase the cost of the proposed undertaking.

(3) (a) (i) If the state historic preservation officer concurs with the agency's evaluation or if the Public Lands Policy Coordinating Office determines that the joint analysis is unnecessary, the state historic preservation officer shall, no later than 30 calendar days after receiving the agency's evaluation, provide formal comments on the agency's evaluation.

(ii) If a joint analysis is conducted, the state historic preservation officer shall provide formal comments on the agency's evaluation no later than 30 calendar days after the conclusion of the joint analysis.

(b) The state historic preservation officer shall ensure that the comments include the results of any joint analysis conducted under Subsection (2).

(c) If a joint analysis is not conducted, the state historic preservation officer's comments may include advice about ways to maximize the amount of historic, scientific, archaeological, anthropological, and educational information recovered, in addition to the physical recovery of specimens and the reporting of archaeological information at current standards of scientific rigor.

(4) (a) Once per month, the state historic preservation officer shall provide the Public Lands Policy Coordinating Office with a list of comments the state historic preservation officer intends to make or has made as required or authorized by the National Historic Preservation Act, 16 U.S.C. Sec. 470 et seq.

(b) At the request of the Public Lands Policy Coordinating Office, the state historic preservation officer shall discuss the comments with the Public Lands Policy Coordinating Office.

Amended by Chapter 292, 2006 General Session

9-8-405. Federal funds -- Agreements on standards and procedures.

By following the procedures and requirements of Title 63J, Chapter 5, Federal Funds Procedures Act, the division may accept and administer federal funds provided under the provisions of the National Historic Preservation Act of 1966, the Land and Water Conservation Act as amended, and subsequent legislation directed toward the encouragement of historic preservation, and to enter into those agreements on professional standards and procedures required by participation in the National Historic Preservation Act of 1966 and the National Register Office.

Amended by Chapter 189, 2014 General Session

9-8-501. Short title.

This part shall be known as the "Historical Preservation Act."

Renumbered and Amended by Chapter 241, 1992 General Session

9-8-502. Legislative finding.

The Legislature finds and declares that preservation and restoration of historically significant real property and structures as identified by the State Register of Historic Sites are in the public interest of the people of the state of Utah and should be promoted by the laws of this state.

Renumbered and Amended by Chapter 241, 1992 General Session

9-8-503. Preservation easement.

Any owner of a fee simple interest in real property may convey, and any other party entitled to own real property interests may accept, a preservation easement pertaining to the real property if the real property possesses historical value that will be enhanced or preserved by the terms of the easement regarding restoration or

preservation of the real property.

Renumbered and Amended by Chapter 241, 1992 General Session

9-8-504. Preservation easement -- Subject to other laws.

Except as provided in this part, preservation easements are subject to the other laws of this state governing easements, generally. Any preservation easement may, with respect to the burdened land, entitle its owner to take certain action, to require certain action to be taken by the owner of the burdened land, or require that certain action not be taken by the owner of the burdened land, and under any such circumstances may be either appurtenant or in gross.

Renumbered and Amended by Chapter 241, 1992 General Session

9-8-505. Rule Against Perpetuities and Rule Restricting Unreasonable Restraints on Alienation not applicable.

The rule of property known as the Rule Against Perpetuities and the rule of property known as the Rule Restricting Unreasonable Restraints on Alienation may not be applied to defeat any of the provisions of this part or of any deed, lease, conveyance, covenant, easement, or other interest created or document executed in accordance with the provisions of this part.

Renumbered and Amended by Chapter 241, 1992 General Session

9-8-506. Charitable contribution for tax purposes.

Any conveyance of a preservation easement may be deemed a charitable contribution for tax purposes in accordance with the laws, rules, and regulations pertaining to charitable contributions of interests in real property.

Renumbered and Amended by Chapter 241, 1992 General Session

9-8-601. Definitions.

As used in this part:

- (1) "Complete" means to be similar in nature and purpose to an encyclopedia, wherein all of the meaningful events that took place in the county are covered, including ecclesiastic, political, educational, economic, and social events.
- (2) "Division" means the Division of State History.
- (3) "Reliable" means information that is as correct and factual as possible, well-documented, and based on established precedent.

Enacted by Chapter 30, 1991 General Session

9-8-602. Authority to write and publish county history -- Administration of project.

- (1) Any county may enter into an agreement with the division to write and publish a complete and reliable history of that county. The county may designate its

county historical society, other agency of county government, or other entity to represent the county for purposes of this agreement.

(2) The division shall supervise and administer this project to write and publish the complete and reliable history of each county and shall render professional expertise to the county or its designee as needed.

Enacted by Chapter 30, 1991 General Session

9-8-603. Standards -- Publication.

(1) The writing and publishing of each history shall meet good historiographical and other professional standards as prescribed and approved by the division. The history shall be identified as the Centennial History of the County.

(2) After approval by the division, each county history may bear, with the approval of the Utah State Centennial Commission, the state centennial history logo and shall be compiled, published, and offered to the public before December 31, 1996, as part of the county's and state's centennial celebrations at a cost not to exceed the cost of printing and binding. The proceeds of the sales shall be returned to the county.

Enacted by Chapter 30, 1991 General Session

9-8-701. Definitions.

As used in this part:

(1) "Board" means the Board of State History.

(2) "Division" means the Division of State History.

(3) "Endowment fund" means any history endowment fund created under this part by a qualifying organization.

(4) "Qualifying organization" means any Utah nonprofit history organization or local government that qualifies under this chapter to create an endowment fund, receive state money into the endowment fund, match state money deposited into the endowment fund, and expend interest earned on the endowment fund.

Amended by Chapter 166, 2014 General Session

9-8-703. History organization endowment funds.

(1) (a) A qualifying organization may create an endowment fund into which there may be deposited money from funds made available for that purpose.

(b) The principal of each endowment fund may not be expended by the qualifying organization and shall be held in perpetuity solely by the qualifying organization or by the Division of Finance on behalf of the qualifying organization.

(c) Only interest income earned on the amount in each endowment fund may be expended by the qualifying organization.

(d) The principal of each endowment fund shall be invested in accordance with Title 51, Chapter 7, State Money Management Act.

(2) (a) An endowment fund shall be administered in accordance with generally accepted accounting principles by professional endowment management personnel.

(b) If no professional endowment management personnel is available to the

qualifying organization, the qualifying organization shall place the endowment fund in a state trust and agency fund administered by the Division of Finance.

(3) If an endowment fund is administered by the Division of Finance:

(a) the Division of Finance shall allocate interest income to the qualifying organization annually; and

(b) the costs for the administration shall be deducted from the interest income before allocations of interest income may be made to the qualifying organization by the Division of Finance.

Amended by Chapter 166, 2014 General Session

9-8-704. Division duties.

The division shall, according to policy established by the board:

(1) allocate money from funds made available for that purpose to the endowment fund created by a qualifying organization under Section 9-8-703;

(2) determine the eligibility of each qualifying organization to receive money from funds made available for that purpose into the endowment fund of the qualifying organization;

(3) determine the matching amount each qualifying organization must raise in order to qualify to receive money from funds made available for that purpose;

(4) establish a date by which each qualifying organization must provide the qualifying organization's matching funds;

(5) verify that matching funds have been provided by each qualifying organization by the date determined in Subsection (4); and

(6) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, make rules establishing criteria for determining the eligibility of qualifying organizations to receive money from funds made available for that purpose.

Amended by Chapter 166, 2014 General Session

9-8-705. Eligibility requirements of qualifying history organizations -- Allocation limitations -- Matching requirements.

(1) A qualifying organization may apply to receive money from funds made available for that purpose to be deposited into an endowment fund created under Section 9-8-703 if the qualifying organization has:

(a) received a grant from the division during one of the three years immediately before making application for money under this Subsection (1); or

(b) not received a grant from the division within the past three years, the qualifying organization may receive a grant upon approval by the division according to policy of the board.

(2) (a) The maximum amount that may be allocated to each qualifying organization from funds made available for that purpose shall be determined by the division in a format to be developed in consultation with the board.

(b) The minimum amount that may be allocated to each qualifying organization from funds made available for that purpose is \$2,500.

(3) (a) After the division determines that a qualifying organization is eligible to

receive money from funds made available for that purpose and before any money is allocated to the qualifying organization from available funds, the qualifying organization shall match the amount qualified for by money raised and designated exclusively for that purpose.

(b) State money and in-kind contributions may not be used to match money from funds made available for that purpose.

(4) Endowment match money shall be based on a sliding scale as follows:

(a) amounts requested up to \$20,000 shall be matched one-to-one;

(b) any additional amount requested that makes the aggregate amount requested exceed \$20,000 but not exceed \$50,000 shall be matched two-to-one; and

(c) any additional amount requested that makes the aggregate amount requested exceed \$50,000 shall be matched three-to-one.

(5) (a) Qualifying organizations shall raise the matching amount by a date determined by the board.

(b) (i) Money from funds made available for that purpose shall be released to the qualifying organization upon verification by the division that the matching money has been received on or before the date determined under Subsection (5)(a).

(ii) Verification of matching funds shall be made by a certified public accountant.

(c) Money from funds made available for that purpose shall be released to qualifying organizations with professional endowment management in increments of at least \$2,500 as audited confirmation of matching funds is received by the board.

(d) Money from funds made available for that purpose shall be granted to each qualifying organization on the basis of the matching funds the qualifying organization has raised by the date determined under Subsection (5)(a).

Amended by Chapter 166, 2014 General Session

9-8-707. Spending restrictions -- Return of endowment.

(1) A qualifying organization that has received endowment money from funds made available for that purpose:

(a) may not expend the money or the required matching money in the endowment fund; and

(b) may expend the interest income earned on the money in the endowment fund.

(2) If a qualifying organization expends money in violation of Subsection (1), the qualifying organization shall return the amount of money allocated by the division under this part to the Division of Finance.

Amended by Chapter 166, 2014 General Session

9-8-708. Federal match.

Funds allocated by the division under this part to enable qualifying organizations to create their own endowment funds may be construed as a state match for any history funding from the federal government that may be provided.

Amended by Chapter 166, 2014 General Session

9-8-801. Short title.

This part is known as the "Preserve Our Heritage Act."

Renumbered and Amended by Chapter 241, 1992 General Session

9-8-802. Definitions.

As used in this part:

(1) "Agency" means any administrative unit of Utah's state government or local government.

(2) "Collecting institutions" means historical societies, museums, archives, and libraries that:

(a) are operated by nonprofit corporations in Utah or by any Utah agency; and

(b) preserve our heritage and benefit society by acquiring and preserving repositied materials.

(3) "Repositied materials" means materials of historical, artistic, literary, or scientific value that are deposited in a collecting institution.

Renumbered and Amended by Chapter 241, 1992 General Session

9-8-803. Ownership of repositied materials -- Rebuttable presumption.

(1) There is established a rebuttable presumption that any repositied materials held by a collecting institution are the property of that collecting institution.

(2) Any person seeking to claim repositied materials from a collecting institution shall comply with the requirements of this part.

Amended by Chapter 4, 1993 General Session

9-8-804. Statute of limitations for claiming repositied materials from a collecting institution.

(1) Any repositied materials in a collecting institution that are not accompanied by a transfer of title to those materials are considered a gift to the collecting institution when more than 25 years have passed from the date of the last written contact between the depositor or his successors and the collecting institution.

(2) No depositor or any of his successors may bring an action against the collecting institution to recover the repositied materials from the collecting institution after 25 years have passed from the date of the last written contact between the depositor or his successors and the collecting institution.

Renumbered and Amended by Chapter 241, 1992 General Session

9-8-805. Collecting institutions -- Perfecting title -- Notice.

(1) (a) Any collecting institution wishing to perfect title in any repositied materials held by it shall send, by registered mail, a notice containing the information required by this section to the last-known address of the last-known owner of the property.

(b) The collecting institution shall publish a notice containing the information required by this section:

- (i) if:
 - (A) the owner or the address of the owner of the repositied materials is unknown;
 - (B) the mailed notice is returned to the collecting institution without a forwarding address; or
 - (C) the owner does not claim the repositied materials within 90 days after the notice was mailed; and
 - (ii) (A) by publication at least once per week for two consecutive weeks in a newspaper of general circulation in the county where the collection institution is located; and
 - (B) by publication in accordance with Section 45-1-101 for two weeks.
- (2) The notices required by this section shall include:
- (a) the name, if known, and the last-known address, if any, of the last-known owner of the repositied materials;
 - (b) a description of the repositied materials;
 - (c) the name of the collecting institution that has possession of the repositied materials and a person within that institution whom the owner may contact; and
 - (d) a statement that if the repositied materials are not claimed within 90 days from the date that the notice is published in accordance with Subsection (1)(b), the repositied materials are considered to be abandoned and become the property of the collecting institution.
- (3) If no one has claimed the repositied materials within 90 days after the date that the notice is published in accordance with Subsection (1)(b), the repositied materials are considered to be abandoned and are the property of the collecting institution.

Amended by Chapter 388, 2009 General Session

9-8-806. Claiming repositied materials held by a collecting institution.

- (1) Any person claiming title to repositied materials held by a collecting institution shall demonstrate that he owns all right, title, and interest in the repositied materials to the reasonable satisfaction of the collecting institution.
- (2) (a) Any person claiming to represent a person claiming title to repositied materials held by a collecting institution shall demonstrate, to the reasonable satisfaction of the collecting institution, that:
- (i) he represents every person who owns any right, title, or interest in the repositied materials; and
 - (ii) the persons he represents own all right, title, and interest in the repositied materials.
- (b) Any person claiming he represents persons holding all right, title, and interest in the repositied materials may demonstrate that representation by providing the collecting institution with a notarized authorization from every person having any right, title, or interest in the repositied materials.

Renumbered and Amended by Chapter 241, 1992 General Session